

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 718
OFFERED BY MRS. WILSON OR MR. GREEN

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

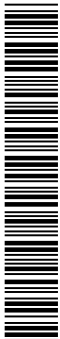
2 This Act may be cited as the “Unsolicited Commer-
3 cial Electronic Mail Act of 2001”.

4 SEC. 2. CONGRESSIONAL FINDINGS AND POLICY.

5 (a) FINDINGS.—The Congress finds the following:

6 (1) There is a right of free speech on the Inter-
7 net.

8 (2) The Internet has increasingly become a crit-
9 ical mode of global communication and now presents
10 unprecedented opportunities for the development and
11 growth of global commerce and an integrated world-
12 wide economy. In order for global commerce on the
13 Internet to reach its full potential, individuals and
14 entities using the Internet and other online services
15 should be prevented from engaging in activities that
16 prevent other users and Internet service providers
17 from having a reasonably predictable, efficient, and
18 economical online experience.



1 (3) Unsolicited commercial electronic mail can
2 be an important mechanism through which busi-
3 nesses advertise and attract customers in the online
4 environment.

5 (4) The receipt of unsolicited commercial elec-
6 tronic mail may result in costs to recipients who
7 cannot refuse to accept such mail and who incur
8 costs for the storage of such mail, or for the time
9 spent accessing, reviewing, and discarding such mail,
10 or for both.

11 (5) Unsolicited commercial electronic mail may
12 impose significant monetary costs on Internet access
13 services, businesses, and educational and nonprofit
14 institutions that carry and receive such mail, as
15 there is a finite volume of mail that such providers,
16 businesses, and institutions can handle without fur-
17 ther investment. The sending of such mail is increas-
18 ingly and negatively affecting the quality of service
19 provided to customers of Internet access service, and
20 shifting costs from the sender of the advertisement
21 to the Internet access service.

22 (6) While some senders of unsolicited commer-
23 cial electronic mail messages provide simple and reli-
24 able ways for recipients to reject (or “opt-out” of)
25 receipt of unsolicited commercial electronic mail



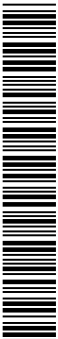
1 from such senders in the future, other senders pro-
2 vide no such “opt-out” mechanism, or refuse to
3 honor the requests of recipients not to receive elec-
4 tronic mail from such senders in the future, or both.

5 (7) An increasing number of senders of unsolic-
6 ited commercial electronic mail purposefully disguise
7 the source of such mail so as to prevent recipients
8 from responding to such mail quickly and easily.

9 (8) Many senders of unsolicited commercial
10 electronic mail collect or harvest electronic mail ad-
11 dresses of potential recipients without the knowledge
12 of those recipients and in violation of the rules or
13 terms of service of the database from which such ad-
14 dresses are collected.

15 (9) Because recipients of unsolicited commercial
16 electronic mail are unable to avoid the receipt of
17 such mail through reasonable means, such mail may
18 invade the privacy of recipients.

19 (10) In legislating against certain abuses on the
20 Internet, Congress should be very careful to avoid
21 infringing in any way upon constitutionally protected
22 rights, including the rights of assembly, free speech,
23 and privacy.



1 (b) CONGRESSIONAL DETERMINATION OF PUBLIC
2 POLICY.—On the basis of the findings in subsection (a),
3 the Congress determines that—

4 (1) there is substantial government interest in
5 regulation of unsolicited commercial electronic mail;

6 (2) Internet service providers should not be
7 compelled to bear the costs of unsolicited commercial
8 electronic mail without compensation from the send-
9 er; and

10 (3) recipients of unsolicited commercial elec-
11 tronic mail have a right to decline to receive or have
12 their children receive unsolicited commercial elec-
13 tronic mail.

14 **SEC. 3. DEFINITIONS.**

15 In this Act:

16 (1) CHILDREN.—The term “children” includes
17 natural children, stepchildren, adopted children, and
18 children who are wards of or in custody of the par-
19 ent, who have not attained the age of 18 and who
20 reside with the parent or are under his or her care,
21 custody, or supervision.

22 (2) COMMERCIAL ELECTRONIC MAIL MES-
23 SAGE.—The term “commercial electronic mail mes-
24 sage” means any electronic mail message that pri-
25 marily advertises or promotes the commercial avail-



1 ability of a product or service for profit or invites
2 the recipient to view content on an Internet web site
3 that is operated for a commercial purpose. An elec-
4 tronic mail message shall not be considered to be a
5 commercial electronic mail message solely because
6 such message includes a reference to a commercial
7 entity that serves to identify the initiator.

8 (3) COMMISSION.—The term “Commission”
9 means the Federal Trade Commission.

10 (4) DOMAIN NAME.—The term “domain name”
11 means any alphanumeric designation which is reg-
12 istered with or assigned by any domain name reg-
13 istrar, domain name registry, or other domain name
14 registration authority as part of an electronic ad-
15 dress on the Internet.

16 (5) ELECTRONIC MAIL ADDRESS.—

17 (A) IN GENERAL.—The term “electronic
18 mail address” means a destination (commonly
19 expressed as a string of characters) to which
20 electronic mail can be sent or delivered.

21 (B) INCLUSION.—In the case of the Inter-
22 net, the term “electronic mail address” may in-
23 clude an electronic mail address consisting of a
24 user name or mailbox (commonly referred to as
25 the “local part”) and a reference to an Internet



1 domain (commonly referred to as the “domain
2 part”).

3 (6) FTC ACT.—The term “FTC Act” means
4 the Federal Trade Commission Act (15 U.S.C. 41 et
5 seq.).

6 (7) INITIATE.—The term “initiate”, when used
7 with respect to a commercial electronic mail mes-
8 sage, means to originate such message or to procure
9 the transmission of such message.

10 (8) INITIATOR.—The term “initiator”, when
11 used with respect to a commercial electronic mail
12 message, means the person who initiates such mes-
13 sage. Such term does not include a provider of an
14 Internet access service, or any other person, whose
15 role with respect to the message is limited to the
16 transmission, routing, relaying, handling, or storing,
17 through an automatic technical process, of a mes-
18 sage composed and addressed by others.

19 (9) INTERNET.—The term “Internet” has the
20 meaning given that term in section 231(e)(3) of the
21 Communications Act of 1934 (47 U.S.C. 231(e)(3)).

22 (10) INTERNET ACCESS SERVICE.—The term
23 “Internet access service” has the meaning given that
24 term in section 231(e)(4) of the Communications
25 Act of 1934 (47 U.S.C. 231(e)(4)).



1 (11) RECIPIENT CONSENT.—The term “recipi-
2 ent consent”, when used with respect to a commer-
3 cial electronic mail message, means that—

4 (A) the message falls within the scope of
5 an express and unambiguous invitation or con-
6 sent granted by the recipient and not subse-
7 quently revoked;

8 (B) the recipient had clear and con-
9 spicuous notice, at the time such invitation or
10 consent was granted, of—

11 (i) the fact that the recipient was
12 granting the invitation or consent;

13 (ii) the scope of the invitation or con-
14 sent, including what types of commercial
15 electronic mail messages would be covered
16 by the invitation or consent and what
17 senders or types of senders, if any, other
18 than the party to whom the invitation or
19 consent was communicated would be cov-
20 ered by the invitation or consent; and

21 (iii) a reasonable and effective mecha-
22 nism for revoking the invitation or consent;
23 and

24 (C) the recipient has not, after granting
25 the invitation or consent, submitted a request



1 under section 5(a)(1) not to receive unsolicited
2 commercial electronic mail messages from the
3 initiator.

4 (12) PRE-EXISTING BUSINESS RELATION-
5 SHIP.—

6 (A) IN GENERAL.—The term “pre-existing
7 business relationship” means, when used with
8 respect to the initiator and recipient of a com-
9 mercial electronic mail message, that—

10 (i) within the 5-year period ending
11 upon receipt of such message, there has
12 been a business transaction between the
13 initiator and the recipient (including a
14 transaction involving the provision, free of
15 charge, of information, goods, or services,
16 that were requested by the recipient); and

17 (ii) if the transmission of the message
18 occurs after the date of the enactment of
19 this Act, the recipient was, at the time of
20 such transaction or thereafter, provided a
21 clear and conspicuous notice of an oppor-
22 tunity not to receive further messages from
23 the initiator and has not exercised such op-
24 portunity.



1 (B) EXCEPTION.—Notwithstanding sub-
2 paragraph (A), a pre-existing business relation-
3 ship does not exist for purposes of this Act be-
4 tween an initiator and a recipient—

5 (i) after the recipient requests, pursu-
6 ant to section 5(a)(1), not to receive fur-
7 ther commercial electronic mail messages
8 from that the initiator; or

9 (ii) after the expiration of a reason-
10 able period of time after the recipient re-
11 quests, pursuant to section 5(a)(2), to be
12 removed from the distribution lists of an
13 initiator.

14 (13) RECIPIENT.—The term “recipient”, when
15 used with respect to a commercial electronic mail
16 message, means the addressee of such message. If
17 an addressee of a commercial electronic mail mes-
18 sage has one or more electronic mail addresses in
19 addition to the address to which the message was
20 addressed, the addressee shall be treated as a sepa-
21 rate recipient with respect to each such address.

22 (14) UNSOLICITED COMMERCIAL ELECTRONIC
23 MAIL MESSAGE.—The term “unsolicited commercial
24 electronic mail message” means any commercial
25 electronic mail message that is sent to a recipient—



1 (A) without prior recipient consent from
2 the recipient; and

3 (B) with whom the initiator does not have
4 a pre-existing business relationship.

5 **SEC. 4. CRIMINAL PENALTY FOR UNSOLICITED COMMERCIAL ELECTRONIC MAIL CONTAINING FRAUDULENT ROUTING INFORMATION.**

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7
8 Section 1030 of title 18, United States Code, is
9 amended—

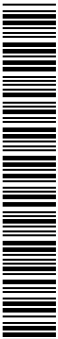
10 (1) in subsection (a)(5)—

11 (A) in subparagraph (B), by striking “or”
12 at the end;

13 (B) in subparagraph (C), by inserting “or”
14 after the semicolon at the end; and

15 (C) by adding at the end the following new
16 subparagraph:

17 “(D) intentionally initiates the transmission of
18 any unsolicited commercial electronic mail message
19 to a protected computer in the United States with
20 knowledge that any domain name, header information,
21 date or time stamp, originating electronic mail
22 address, or other information identifying the
23 initiator or the routing of such message, that is contained in or accompanies such message, is false or
24 inaccurate;”
25



1 (2) in subsection (c)(2)(A)—

2 (A) by inserting “(i)” after “in the case
3 of”; and

4 (B) by inserting before “; and” the fol-
5 lowing: “, or (ii) an offense under subsection
6 (a)(5)(D) of this section”; and

7 (3) in subsection (e)—

8 (A) by striking “and” at the end of para-
9 graph (8);

10 (B) by striking the period at the end of
11 paragraph (9) and inserting a semicolon; and

12 (C) by adding at the end the following new
13 paragraph:

14 “(10) the terms ‘initiate’, ‘initiator’, ‘unsolicited
15 commercial electronic mail message’, and ‘domain
16 name’ have the meanings given such terms in section
17 3 of the Unsolicited Commercial Electronic Mail Act
18 of 2001.”.

19 **SEC. 5. OTHER PROTECTIONS AGAINST UNSOLICITED COM-**
20 **MERCIAL ELECTRONIC MAIL.**

21 (a) **REQUIREMENTS FOR TRANSMISSION OF MES-**
22 **SAGES.—**

23 (1) **INCLUSION OF RETURN ADDRESS IN COM-**
24 **MERCIAL ELECTRONIC MAIL.—**It shall be unlawful
25 for any person to initiate the transmission of a com-

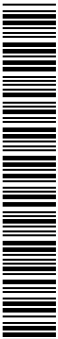


1 mercial electronic mail message to any person within
2 the United States unless such message contains a
3 valid electronic mail address, conspicuously displayed,
4 to which a recipient may send a reply to the
5 initiator to indicate a desire not to receive any further
6 messages.

7 (2) PROHIBITION OF TRANSMISSION OF UNSOLICITED
8 COMMERCIAL ELECTRONIC MAIL AFTER OBJECTION.—If a recipient
9 makes a request to a person to be removed from all distribution
10 lists under the control of such person, after receipt of such
11 request—
12 request—

13 (A) it shall be unlawful for such person to
14 initiate the transmission of an unsolicited commercial
15 electronic mail message to such a recipient within the United
16 States after the expiration of a reasonable period of time for
17 removal from such lists;
18 removal from such lists;

19 (B) the initiator (and the agents or assigns
20 of the initiator) shall delete or suppress immediately the
21 electronic mail addresses of the recipient from all mailing
22 lists owned or controlled by the initiator (or such agents or
23 assigns); and
24 assigns); and



1 (C) it shall be unlawful for the initiator
2 (and such agents or assigns) to sell, lease, ex-
3 change, license, or engage in any other trans-
4 action involving mailing lists bearing the elec-
5 tronic mail addresses of the recipient.

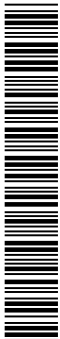
6 (3) INCLUSION OF IDENTIFIER, OPT-OUT, AND
7 PHYSICAL ADDRESS IN UNSOLICITED COMMERCIAL
8 ELECTRONIC MAIL.—It shall be unlawful for any
9 person to initiate the transmission of any unsolicited
10 commercial electronic mail message to any person
11 within the United States unless the message pro-
12 vides, in a manner that is clear and conspicuous to
13 the recipient—

14 (A) identification that the message is an
15 unsolicited commercial electronic mail message;

16 (B) notice of the opportunity under para-
17 graph (2) to decline to receive further unsolic-
18 ited commercial electronic mail messages from
19 the initiator; and

20 (C) the physical mailing address of the
21 initiator.

22 (4) TREATMENT OF INTERNAL OPT-OUT
23 LISTS.—If the policy of a provider of Internet access
24 service requires compensation specifically for the
25 transmission of unsolicited commercial electronic



1 mail messages into its system, it shall be unlawful
2 for the provider to fail to provide an option to its
3 subscribers not to receive any unsolicited commercial
4 electronic mail messages, except that such option
5 shall not be required for any subscriber who has
6 agreed to receive unsolicited commercial electronic
7 mail messages in exchange for discounted or free
8 Internet access service.

9 (5) AFFIRMATIVE DEFENSE.—It shall be an af-
10 firmative defense in any action or proceeding
11 brought for a violation of any paragraph of this sub-
12 section that the violation was not intentional.

13 (b) ENFORCEMENT OF POLICIES BY INTERNET AC-
14 CESS SERVICE PROVIDERS.—

15 (1) PROHIBITION OF TRANSMISSIONS IN VIOLA-
16 TION OF POSTED POLICY.—It shall be unlawful for
17 any person to initiate the transmission of an unsolic-
18 ited commercial electronic mail message to any re-
19 cipient within the United States in violation of a pol-
20 icy governing the use of the equipment of a provider
21 of Internet access service to such recipient for trans-
22 mission of unsolicited commercial electronic mail
23 messages that meets the requirements of paragraph
24 (2).



1 (2) REQUIREMENTS FOR ENFORCEABILITY.—

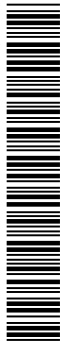
2 The requirements under this paragraph for a policy
3 regarding unsolicited commercial electronic mail
4 messages are as follows:

5 (A) CLARITY.—The policy shall explicitly
6 provide that compliance with a rule or set of
7 rules is a condition of use of the equipment of
8 a provider of Internet access service to deliver
9 commercial electronic mail messages.

10 (B) PUBLIC AVAILABILITY THROUGH WEB
11 POSTING.—The policy shall be made publicly
12 available by clear and conspicuous posting on a
13 World Wide Web site of the provider of Internet
14 access service, which has an Internet domain
15 name that is identical to the Internet domain
16 name of the electronic mail address to which
17 the rule or set of rules applies.

18 (c) NO EFFECT ON POLICIES OF PROVIDERS OF
19 INTERNET ACCESS SERVICE.—Nothing in this Act shall
20 be construed—

21 (1) to prevent or limit, in any way, a provider
22 of Internet access service from adopting a policy re-
23 garding commercial or other electronic mail, includ-
24 ing a policy of declining to transmit certain types of
25 electronic mail messages, and from enforcing such



1 policy through technical means, through contract, or
2 pursuant to any remedy available under any other
3 provision of Federal, State, or local criminal or civil
4 law; or

5 (2) to render lawful any such policy that is un-
6 lawful under any other provision of law.

7 (d) PROTECTION OF INTERNET ACCESS SERVICE
8 PROVIDERS GOOD FAITH EFFORTS TO BLOCK TRANS-
9 MISSIONS.—A provider of Internet access service shall not
10 be liable, under any Federal, State, or local civil or crimi-
11 nal law, for any action it takes in good faith to block the
12 transmission or receipt of unsolicited commercial elec-
13 tronic mail messages.

14 **SEC. 6. ENFORCEMENT.**

15 (a) NOTIFICATION OF ALLEGED VIOLATION.—

16 (1) IN GENERAL.—The Commission shall send
17 a notification of alleged violation to any person who
18 violates section 5 if—

19 (A) a recipient or a provider of Internet
20 access service notifies the Commission, in such
21 form and manner as the Commission shall de-
22 termine, that a transmission has been received
23 in violation of section 5; or



1 (B) the Commission has other reason to
2 believe that such person has violated or is vio-
3 lating section 5.

4 (2) TERMS OF NOTIFICATION.—A notification
5 of alleged violation under paragraph (1) shall—

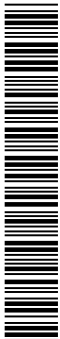
6 (A) identify the violation for which the no-
7 tification was issued;

8 (B) direct the initiator to refrain from fur-
9 ther violations of section 5; and

10 (C) expressly prohibit the initiator (and
11 the agents or assigns of the initiator) from fur-
12 ther initiating unsolicited commercial electronic
13 mail messages in violation of section 5 to the
14 designated recipients or providers of Internet
15 access service, effective on the third day (ex-
16 cluding Saturdays, Sundays, and legal public
17 holidays) after receipt of the notification.

18 (3) COVERAGE OF MINOR CHILDREN BY NOTIFI-
19 CATION.—Upon request of a recipient of an elec-
20 tronic mail message transmitted in violation of sec-
21 tion 5, the Commission shall include in the notifica-
22 tion of alleged violation the names and electronic
23 mail addresses of any child of the recipient.

24 (b) ENFORCEMENT THROUGH FTC ACT.—



1 (1) ENFORCEMENT.—Except as otherwise pro-
2 vided in this Act, section 5 shall be enforced by the
3 Commission under the FTC Act.

4 (2) UNFAIR OR DECEPTIVE PRACTICE.—Any
5 violation of section 5 shall be treated as a violation
6 of a rule under section 18 of the FTC Act (15
7 U.S.C. 57a) regarding unfair or deceptive acts or
8 practices.

9 (3) SCOPE OF COMMISSION ENFORCEMENT.—
10 The Commission shall prevent any person from vio-
11 lating section 5 of this Act in the same manner, by
12 the same means, and with the same jurisdiction,
13 powers, and duties as though all applicable terms
14 and provisions of the FTC Act were incorporated
15 into and made a part of this section. Any person
16 who violates section 5 of this Act shall be subject to
17 the penalties and entitled to the privileges and im-
18 munities provided in the FTC Act in the same man-
19 ner, by the same means, and with the same jurisdic-
20 tion, powers, and duties as though all applicable
21 terms and provisions of the FTC Act were incor-
22 porated into and made a part of this section.

23 (c) PRIVATE RIGHT OF ACTION.—

24 (1) ACTIONS AUTHORIZED.—A recipient or a
25 provider of Internet access service may, if otherwise



1 permitted by the laws or rules of court of a State,
2 bring in an appropriate court of that State, or may
3 bring in an appropriate Federal court if such laws
4 or rules do not so permit, either or both of the fol-
5 lowing actions:

6 (A) An action based on a violation of sec-
7 tion 5 to enjoin such violation.

8 (B) An action to recover for actual mone-
9 tary loss from such a violation in an amount
10 equal to the greatest of—

11 (i) the amount of such actual mone-
12 tary loss; or

13 (ii) \$500 for each such violation, not
14 to exceed a total of \$50,000.

15 (2) ADDITIONAL REMEDIES.—If the court finds
16 that the defendant willfully, knowingly, or repeatedly
17 violated section 5, the court may, in its discretion,
18 increase the amount of the award to an amount
19 equal to not more than three times the amount
20 available under paragraph (1).

21 (3) ATTORNEY FEES.—In any such action, the
22 court may, in its discretion, require an undertaking
23 for the payment of the costs of such action, and as-
24 sess reasonable costs, including reasonable attorneys'
25 fees, against any party.



1 (4) PROHIBITION OF CLASS ACTIONS.—A pri-
2 vate action arising under this subsection may not be
3 brought as a plaintiff class action pursuant to the
4 Federal Rules of Civil Procedure nor as a plaintiff
5 class action pursuant to the law or rules of proce-
6 dure of any State.

7 (5) PROTECTION OF TRADE SECRETS.—At the
8 request of any party to an action brought pursuant
9 to this subsection or any other participant in such
10 an action, the court may, in its discretion, issue pro-
11 tective orders and conduct legal proceedings in such
12 a way as to protect the secrecy and security of the
13 computer, computer network, computer data, com-
14 puter program, and computer software involved in
15 order to prevent possible recurrence of the same or
16 a similar act by another person and to protect any
17 trade secrets of any such party or participant.

18 (d) ENFORCEMENT BY STATES.—

19 (1) IN GENERAL.—

20 (A) CIVIL ACTIONS.—In any case in which
21 the attorney general of a State has reason to
22 believe that an interest of the residents of that
23 State has been or is threatened or adversely af-
24 fected by the engagement of any person in a
25 practice that violates section 5 of this Act, the



1 State, as *parens patriae*, may bring civil action
2 on behalf of the residents of the State in an ap-
3 propriate court of that State, or in a district
4 court of the United States of appropriate juris-
5 diction to—

6 (i) enjoin that practice;

7 (ii) enforce compliance with the rule;

8 or

9 (iii) obtain damage, restitution, or
10 other compensation on behalf of residents
11 of the State, including such punitive dam-
12 ages as the court may find appropriate.

13 (B) NOTICE.—

14 (i) IN GENERAL.—Before filing an ac-
15 tion under subparagraph (A), the attorney
16 general of the State involved shall provide
17 to the Commission—

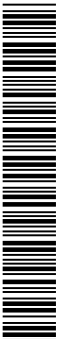
18 (I) written notice of that action;

19 and

20 (II) a copy of the complaint for
21 that action.

22 (ii) EXEMPTION.—

23 (I) IN GENERAL.—Clause (i)
24 shall not apply with respect to the fil-
25 ing of an action by an attorney gen-



1 eral of a State under this subsection,
2 if the attorney general determines
3 that it is not feasible to provide the
4 notice described in that subparagraph
5 before the filing of the action.

6 (II) NOTIFICATION.—In an ac-
7 tion described in subclause (I), the at-
8 torney general of a State shall provide
9 notice and a copy of the complaint to
10 the Commission at the same time as
11 the attorney general files the action.

12 (2) INTERVENTION.—

13 (A) IN GENERAL.—On receiving notice
14 under paragraph (1)(B), the Commission shall
15 have the right to intervene in the action that is
16 the subject of the notice.

17 (B) EFFECT OF INTERVENTION.—If the
18 Commission intervenes in an action under para-
19 graph (1), it shall have the right—

20 (i) to be heard with respect to any
21 matter that arises in that action; and

22 (ii) to file a petition for appeal.

23 (3) CONSTRUCTION.—For purposes of bringing
24 any civil action under paragraph (1), nothing in this
25 Act shall be construed to prevent an attorney gen-



1 eral of a State from exercising the powers conferred
2 on the attorney general by the laws of that State
3 to—

4 (A) conduct investigations;

5 (B) administer oaths or affirmations; or

6 (C) compel the attendance of witnesses or
7 the production of documentary and other evi-
8 dence.

9 (4) VENUE; SERVICE OF PROCESS.—

10 (A) VENUE.—Any action brought under
11 paragraph (1) may be brought in the district
12 court of the United States that meets applicable
13 requirements relating to venue under section
14 1391 of title 28, United States Code.

15 (B) SERVICE OF PROCESS.—In an action
16 brought under paragraph (1), process may be
17 served in any district in which the defendant—

18 (i) is an inhabitant; or

19 (ii) may be found.

20 **SEC. 7. EFFECT ON OTHER LAWS.**

21 (a) FEDERAL LAW.—Nothing in this Act shall be
22 construed to impair the enforcement of section 223 or 231
23 of the Communications Act of 1934, chapter 71 (relating
24 to obscenity) or 110 (relating to sexual exploitation of chil-



1 dren) of title 18, United States Code, or any other Federal
2 criminal statute.

3 (b) STATE LAW.—No State or local government may
4 impose any civil liability for commercial activities or ac-
5 tions in interstate or foreign commerce in connection with
6 an activity or action described in section 5 of this Act that
7 is inconsistent with the treatment of such activities or ac-
8 tions under this Act, except that this Act shall not pre-
9 empt any civil action under—

10 (1) State trespass or contract law; or

11 (2) any provision of Federal, State, or local
12 criminal law or any civil remedy available under
13 such law that relates to acts of computer fraud or
14 abuse arising from the unauthorized transmission of
15 unsolicited commercial electronic mail messages.

16 **SEC. 8. STUDY OF EFFECTS OF UNSOLICITED COMMERCIAL**
17 **ELECTRONIC MAIL.**

18 Not later than 18 months after the date of the enact-
19 ment of this Act, the Federal Trade Commission shall sub-
20 mit a report to the Congress that provides a detailed anal-
21 ysis of the effectiveness and enforcement of the provisions
22 of this Act and the need (if any) for the Congress to mod-
23 ify such provisions.



1 **SEC. 9 SEPARABILITY.**

2 If any provision of this Act or the application thereof
3 to any person or circumstance is held invalid, the remain-
4 der of this Act and the application of such provision to
5 other persons or circumstances shall not be affected.

6 **SEC. 10. EFFECTIVE DATE.**

7 The provisions of this Act shall take effect 60 days
8 after the date of the enactment of this Act.

